



Fast Track Settlement

A Process for Prompt Resolution Of Tax Exempt and Government Entities (TE/GE) Tax Issues

Introduction

TE/GE Fast Track Settlement (FTS) is an alternative to the formal Appeals process for resolving unagreed issues during the examination process. Working with the Tax Exempt/Government Entities Division (TE/GE) and Appeals, taxpayers can use the settlement authority and mediation skills of Appeals while shortening their overall experience with the Internal Revenue Service. FTS can reduce a taxpayer's combined TE/GE and Appeals audit process time by as much as one year.

Both the TE/GE and Appeals organizations are committed to reducing the time it takes for taxpayers to complete the examination and resolution processes.

Eligible Cases/Issues

FTS is generally available for all cases under the jurisdiction of TE/GE without regard to dollar amount. To be eligible for FTS the issues must be fully developed, the taxpayer must provide a written position and there must be a limited number of unagreed issues.

FTS is appropriate for factual and legal issues and may be based on the hazards of litigation (the risk of going to trial).

Excluded Cases/Issues

FTS is not available in certain cases or situations, for example:

- Issues that can be resolved through other established settlement initiatives, such as, but not limited to, the Self Correction Program ("SCP"), the Audit Closing Agreement Program ("Audit CAP") or other programs described in Rev. Proc. 2013-12, 2013-4 I.R.B. 313;
- Correspondence examination cases;
- Cases in which the taxpayer has failed to respond to the Service, or no documentation has been previously submitted for consideration by TE/GE;
- Issues designated for litigation or under consideration for designation for litigation;
- Cases where the Appeals Division lacks jurisdiction (including determination of penalties under Section 6700 of the Code);
- Cases involving potential for civil or criminal fraud;
- Rebate claim cases;
- Cases involving Listed Transactions or Abusive Tax Avoidance Transactions ("ATAT");
- Tax Equity & Fiscal Responsibility Act ("TEFRA") partnership cases;
- Frivolous issues such as, but not limited to, those identified in Notice 2010-33, 2010-17 I.R.B. 609, or any successor guidance;
- Issues for which resolution with respect to one party might result in inconsistent treatment in the absence of the participation of another party; or
- Issues that have been identified in a Chief Counsel Notice, or equivalent publication, as excluded from the FTS process.

Advantages

The advantages of FTS include:

- Quicker resolution of audit issues (60 days or less)
- No need for a formal protest
- A one-page application (Form 14017)
- Consideration of hazards of litigation
- Withdrawal from the process at any time
- Retention of all traditional appeal rights (See Publication 5, *Your Appeal Rights and How to Prepare A Protest If You Don't Agree*)

Getting Started

When it appears a taxpayer may not agree with issues raised during the examination process, the taxpayer should have an early discussion with the TE/GE examiner about the possible use of the FTS process.

The taxpayer, the examiner or the TE/GE Group Manager may consider using the TE/GE FTS process at any time after an issue has been fully developed but before a 30-day letter (or its equivalent) is issued.

The TE/GE examiner and the taxpayer should agree on all the facts and circumstances. Only issues where no agreement is reached should be submitted for FTS.

Applying for FTS

To apply to the FTS program:

1. The taxpayer must complete Form 14017 - Application for Fast Track Settlement, which must include the examiner's position and the taxpayer's written response.
2. The examiner will process the application through his or her manager.
3. The TE/GE manager will determine if the case is eligible for FTS. If so, the case will be submitted to an operating division official before submission to Appeals.

4. The Appeals TE/GE FTS Program Manager will decide whether to accept the case into the program.

If the issue is not ready for FTS, the Appeals TE/GE FTS Program Manager will suggest what additional development might improve chances for a successful FTS outcome. The Appeals TE/GE FTS Program Manager may also suggest alternative resolution processes.

If the case is not accepted for inclusion in TE/GE FTS, the TE/GE or Appeals representative will discuss other dispute resolution opportunities with the taxpayer.

The decision not to accept a case into the TE/GE FTS program is not subject to administrative appeal or judicial review. However, if your request is not accepted you retain your traditional appeal rights as explained in Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree*.

Ex Parte Communications

The prohibition against ex parte communications between Appeals Officers and other Service personnel does not apply to communications arising in Fast Track Settlement because Appeals personnel, in facilitating an agreement between the taxpayer and TE/GE, are not acting in their traditional Appeals settlement role.

Role of the Fast Track Settlement Official

When a case is accepted for FTS, an Appeals mediator will be assigned to act as the FTS Settlement Official. The role of the FTS Official is to serve as a neutral party and facilitate an agreement between the IRS and the taxpayer. The FTS Official may propose settlement terms for all issues and may consider settlement terms proposed by either party. In order for the FTS session to be successful, all decision makers must be physically present at the session so a mutually agreeable determination can be reached.

If the parties reach an agreement, they will sign Form 14000, Fast Track Session Report, to reflect the agreed upon treatment of the issue(s). The TE/GE representative or the FTS Official will use established issue or case closing procedures and prepare the applicable agreement forms, including Form 906, Closing Agreement on Final Determination Covering Specific Matters, if appropriate.

Appeal Rights

If any issues remain unresolved at the conclusion of the FTS process, taxpayers retain their traditional appeal rights as explained in Publication 5, *Your Appeal Rights and How To Prepare a Protest If You Don't Agree*.

Confidentiality

The FTS process is confidential and employees involved in the process are subject to confidentiality and disclosure provisions of applicable law. However, if no settlement is reached, the administrative file will be returned to TE/GE and any written documents disclosed by the taxpayer during the Fast Track process become available to TE/GE and may be used in making a determination.

Withdrawal

All parties retain the right to withdraw throughout the entire TE/GE FTS process. A party wishing to withdraw should provide written notice to the FTS Appeals Official and the other party.

Early Referral Option

An alternative to Fast Track Settlement is the use of Early Referral to Appeals. The Early Referral option is best used relatively early in the examination process when there are one or more developed, unagreed issues, and there are other undeveloped examination issues. The developed, unagreed issues are referred to Appeals, while the other issues in the case continue to be developed in TE/GE. The early resolution of a key issue may

encourage taxpayers and the Service to agree on other issues in the case. Regular Appeals procedures apply, including taxpayer conferences. For complete information, see Revenue Procedure 99-28, available on the IRS Appeals Website <http://www.irs.gov/appeals>.

For further information on TE/GE FTS visit the irs.gov site: http://www.irs.gov/irb/2012-36_IRB/ar08.html

Other Useful Resources:

- IRS website - www.irs.gov
- Tax Information for Employee Plans www.irs.gov/retirement/index.html
- Tax Information for Exempt Organizations www.irs.gov/charities/index.html
- Tax Information for Indian Tribal Governments www.irs.gov/govt/tribes/index.html
- Tax Information for Federal State and Local Governments <http://www.irs.gov/Government-Entities/Federal,-State-&-Local-Governments>
- Tax Information for the Tax Exempt Bond Community www.irs.gov/taxexemptbond/index.html
- Taxpayer Advocate Service: 1-877-777-4778
- IRS Toll Free: 1-800-829-1040
- Forms and Publications: 1-800-TAX-FORM (1-800-829-3676)